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Colder.

Must Pay the Tax.

CINCINNATI, April 8.—Judge Taft to-day dismissed the demurrers of the express, telegraph and other companies to the manner in which the valuations had been fixed for taxation under the recent Nichols law. The Supreme Court had previously sustained the law. To-day's decision will produce much revenue for the State from the Nichols law.

High Kicker Breaks Both Legs.

LOUISVILLE, April 8.—A very peculiar accident happened to H. H. Kimmel, foreman of Mathews's tobacco factory, yesterday. He was out with several friends, and an argument arose as to who could kick the highest. In his attempt Kimmel fell with his legs under him, breaking both limbs. He was removed to his hotel.

COLT LAUREATE WON

COTTON STAKES AT MEMPHIS TAKEN BY THE PASTIME STABLE.

Cumberland Prize at Nashville, Worth $4,000, Captured by Simon W., a Bay Colt, Owned by Baker & Gentry.

MEMPHIS, Tenn., April 8.—Three thousand people were at Montgomery Park this afternoon to witness the opening of the regular spring race meeting. The day was cloudy and rather cool, but the sport was good, and the twenty-five bookmakers did a rushing business. Del Coronado, at 3 to 1, in the second race, was the only favorite to win. The other events were taken by three second choices and a 6-to-1 shot. The card was a good one, the chief interest centering in the Cotton stakes, worth about $1,300 to the winner, which was won by the Pastime stable's good colt Laureate, the winner of the Arkansas Derby. Of the six starters Laureate and Handspun were almost equal favorites. Laureate got off well and had the race well in hand from start to finish, winning under a pull in fairly good time, considering the heaviness of the track. Handspun was hard pressed by Maurice for the place, winning by a head. Results:

First Race—Five-eighths of a mile. Geo. F. Smith, 4 to 1, won; Potentate, even, second; Sister Mary, 6 to 1, third. Time, 1:03¾.

Second—Four furlongs. Del Coronado, 3 to 1, won; Cochise, 7 to 1, second; Imp. The Dog, 30 to 1, third. Time, :51.

Third—The Cotton stakes; for three-year-olds; $1,000 added; six furlongs. Laureate, 119 (A. Clayton), 3 to 2, won easily by an open length; Handspun, 117 (Knapp), 8 to 5, second; Maurice, 117 (Blake), 10 to 1, third. Time, 1:17¾.

Fourth—Four furlongs. Lela Bell, 6 to 1, won; Florrie, 4 to 1, second; Stella, 4 to 1, third. Time, :51.

Fifth—One mile. Imp. Percy, 6 to 5, won; Jim Henry, 25 to 1, second; Rhett Goode, even, third. Time, 1:45¼.

Virginia Jockey Club Races.

WASHINGTON, April 8.—The first of the stake races to be given by the Virginia Jockey Club was run to-day over a track that was a perfect sea of mud; while the rain was coming down in torrents. It was the Monticello stakes for two-year-olds, at half a mile, $1,000 guaranteed, and was won by Belmont's filly, Florette, by Civil Service or Fiddlesticks, out of Flavia. Seventeen "bookies" went on and managed to break even with the talent. Jockey Clerico received a telegram from Nashville to-day asking him if he would go to that place on the 20th inst. to ride Simmons in the match race against Dr. Rice, last year's Brooklyn handicap winner. Clerico is under contract to ride for May and Hall and cannot go without their permission. If they give it he will take the mount. Results:

First Race—Five furlongs. Pontlear, 16 to 5, won; Foundling, 10 to 1, second; Golden Gate, 3 to 1, third. Time, 1:05½.

Second—Seven furlongs. Sandowne, 7 to 5, won; Plenty, 3 to 1, second; Major General, 9 to 1, third. Time, 1:32.

Third—Half mile; Monticello stakes. Florette, 112 (Doggett), 6 to 5; won; Premier, 117 (R. Doggett), 9 to 2, second; Summertime, 114 (Nancey), 13 to 5, third. Time, :51½.

Fourth—One mile. Charade, 8 to 5, won; Logan, 6 to 5, second; Restraint, 20 to 1, third. Time, 1:47.

Fifth—Half mile. Applegate, 8 to 5, won; Vice Regal, 2 to 5, second; Hermia, 11 to 5, third. Time, :51. Chugnut and Wheatland also ran.

Sixth—Five furlongs. Cuckoo, 15 to 1; won; Hoey, 8 to 5, second; Leonards, 3 to 1, third. Time, 1:04¾.

The Cumberland Prize.

NASHVILLE, April 8.—The races at Cumberland Park to-day were run over a track deep in mud, and the scratches were numerous. The Cumberland prize, with its $4,000 guaranteed, the richest stake of the meeting, had only five starters. Buckmassie was the even money favorite, but he evidently did not like the mud. Baker & Gentry's Simon W., a bay colt by Harry O'Fallon, out of Lady Ryster, won the race with ridiculous ease. He was the third choice, and after getting off well, took the lead before the stand was reached and thereafter was never headed, winning under a strong pull. Buckmassie was second, five lengths in front of Tobin. Results:

First Race—Five-eighths of a mile. Uncle Luke, 8 to 5, won; Katie, 8 to 1, second; Red John, 4 to 1, third. Time, 1:04.

Second—Four furlongs—Glacier, 7 to 5, won galloping, by five lengths; Dr. Holmes, 2 to 1, second; Helena Belle, 3 to 1, third. Time, :51½.

Third—Seven-eighths of a mile. Jaja, 3 to 1, won; Addie Buchanan, 3 to 1, second; Clementine, 7 to 5, third. Time, 1:32¾.

Fourth—Cumberland prize; for three-year-olds; $4,000; mile and one-eighth. Simon W., 117 (Martin), 4 to 1, won, pulled up, by six lengths; Buckmassie, 117 (Perkins), even, second; Tobin, 115 (Thorpe), 2 to 1, third. Time, 2:00½.

Fifth—One-half mile. Plug, 8 to 1, won; Rags, 8 to 5, second; Nancy T., 3 to 1, third. Time, :51½.

Incidents at San Francisco.

SAN FRANCISCO, April 8.—Chemuck, 20 to 1, fell in the second race and jockey Reeves's arm and collarbone were broken.

In the fourth Arctic, ridden by Felix Carr, did circus tricks all over the track for a half an hour and then won by an eyelash from Sweet Alice. Arctic was entered at $200 and Nick Ball bid him up to $1,000, at which price Wyatt Earp, his owner, bought him in. Earp has a reputation as a bad man in Arizona, and an expectant crowd followed him about expecting to see trouble. They were disappointed.

East St. Louis Winners.

ST. LOUIS, April 8.—Results at East St. Louis:

First Race—Three-quarters of a mile. Pokino won; Lady Lister second, Poet third. Time, 1:22.

Second—Five-eighths of a mile. Christine D. won; Herndon second, Jim Derry third. Time, 1:06.

Third—Thirteen-sixteenths of a mile. Little Nell won; Queen Bess second, Frankie D. third. Time, 1:27¼.

Fourth—One mile. Mirabeau won; Michel second, St. Leo third. Time, 1:49¾.

Fifth—Three-quarters of a mile. The Rook won; Say When second, Miss Mayma third. Time, 1:24.

Louisville Jockey Club.

LOUISVILLE, April 8.—The book of programmes for the spring meeting of the new Louisville Jockey Club were issued to-day. The meeting begins on Derby day, Monday, May 6, and continues for fifteen days. There will be five or more races each day. Besides the ten stakes that will be run during the meeting, there will be a six-hundred-dollar over-night handicap each day, while the purses will be $500 and $400 apiece. Over seven hundred horses are expected, and the meeting promises to be the most successful held here in fifteen years. Secretary Price has induced all the railroads leading into Louisville to give a single fare round-trip rate for the meeting and several thousand visitors are expected. The improvements at the track, involving an expenditure of over $80,000, have been completed, including a magnificent new grand stand.

ANNA ON THE STAND

MISS DICKINSON GIVES EVIDENCE IN HER DAMAGE CASE.

She Denies Drinking to Excess, Scores Gould and Whitelaw Reid and Calls Dr. Hillman a Jackal.

SCRANTON, Pa., April 8.—After an interval of a week the action of Anna Dickinson to recover damages from those who were responsible for her incarceration in the Danville insane asylum, in February, 1891, was resumed before Judge W. W. Acheson, in the United States Circuit Court here to-day. The plaintiff was called to the witness stand to give evidence in rebuttal. Her first statement was that everything she said in the letter she sent to her brother, at Los Angeles, Cal., while in the asylum, was absolutely true. She denied that she had ever taken intoxicating liquors in excess.

"Tell the jury whether there is any truth in the statement regarding undue excitement on your part, testified to by Dr. Hillman," said ex-Judge Dailey.

"It is a filthy lie," exclaimed Miss Dickinson, "manufactured for the manifest purpose for which it was used in the court room."

Miss Dickinson then described her condition when suffering from a sick headache, for which Dr. Bronson was treating her. "He gave me relief," said the witness, rising to her feet, "and out of the gratitude I felt for the relief afforded, I thanked God, and, thinking the doctor a gentleman and a Christian, I kissed his forehead as evidence of the thankfulness I felt. In view of testimony given by Dr. Johnson on the point, I ask God to forgive me for that act," solemnly concluded the witness, with a dramatic gesture, as she sat down.

Miss Dickinson said she not only gave dresses to Susan B. Anthony, but indorsed a note for $5,000, which Miss Anthony defaulted in paying. She admitted having sent, while in the Danville asylum, a telegram to Jay Gould asking for $1,000,000. "I sent this telegram," she continued, "to Gould, who backed Whitelaw Reid in wrecking the New York Tribune when Horace Greely was its editor, and when Horace Greely, a sane man, was seized at the instance of both and thrown into an asylum, where he died two weeks after his incarceration. That is why I sent the telegram to Gould, in care of the Tribune, instead of direct to Gould himself."

As to why she refused to leave the asylum, she said: "I refused to leave the asylum because a jackal brought me there and a jackal would take me away."

Major Warren—Dr. Hillman is the jackal?

Miss Dickinson—He is. A jackal is a foul beast of prey. I am usually accurate in my definitions.

DR. BUCHANAN MUST DIE.

Preparations Begun for the Electrocution of the Wife Poisoner.

SING SING, N. Y., April 8.—Dr. Buchanan, the wife poisoner, has become very nervous and depressed since the Court of Appeals affirmed his conviction. After this decision was rendered Buchanan, who had been defended by lawyer Brooke, decided to change his counsel, and employed William F. Howe for the purpose of carrying his case to the United States Court. This was the only hope. Buchanan was somewhat surprised when he was notified recently by Mr. Howe that he could not possibly present his case in the United States Court, at Washington, before April 22. The condemned man now realizes that there is little chance for his execution being further postponed. Warden Sage is now going on with preparations for the execution on Monday, April 22. He has received over one hundred applications from medical men and electrical experts and others who desire to witness the execution. The law will not permit the warden to grant over thirty of the applications and these invitations will be sent out next week. Not so much interest has been shown in a condemned murderer at Sing Sing since Carlisle Harris was executed two years ago.

A Desperado's Gibraltar Stormed.

LITTLE ROCK, Ark., April 8.—Desperado William Frazier has been captured in Sugar Loaf mountains after a fight in which two officers, Nunelly and Jones, were fatally wounded. Frazier was found in a stone fort, which proved a veritable Gibraltar. His wife led the posse to the place, riding at the head of the party with a Winchester strapped to her saddle. She asked her husband to surrender and save his life and when he refused the fight opened, she taking no part in the engagement. The officers charged the fort, Frazier firing as they advanced. He was knocked down and manacled after wounding two of the posse.

Has Great Penetration.

LEAVENWORTH, Kan., April 8.—The Krag-Jorgenson army rifle was tested publicly a second time on the Fort Leavenworth rifle range to-day. The firing was at a distance of from 1,000 to 5,000 yards. Fully half the garrison and many people from this city were present to witness the possibilities of the rifle. At 1,000 yards a bullet went through nearly thirty-six inches of solid oak without being misshapen in the least, and at 2,000 yards an inch steel plate was penetrated. At 1,500 yards a missile passed through a human cadaver and over twenty-four inches of oak.

Girl Burned to Death.

WHEELING, W. Va., April 8.—Absalom Courtright and wife, living near Glen Easton, left home last evening for a visit to Cameron, Marshall county, leaving the six-year-old daughter in charge of an aged man who lived with them. On returning they found their barn burned to the ground together with its contents. The little girl had perished in the flames. She had been playing with some matches in the barn and had set fire to the straw.

Killed His Son.

CALDWELL, O., April 8.—John Stephens, a farmer residing in Marion township, Noble county, murdered his son yesterday by striking him on the head with a club. The son refused to give his father $2 on demand and this led to the crime.

Storm Along the Coast.

CAPE MAY, N. J., April 8.—A severe southeast storm prevails to-night along the south Jersey coast, with driving rain and hail, and high winds and tides on the meadows. The ocean is wild and a sharp outlook is being kept for wrecks.

FLAWS IN THE LAW

DECISION OF THE SUPREME JUSTICES IN THE INCOME-TAX CASES.

That Part of the Act Relating to Rents and State, County and City Bonds Held to Be Unconstitutional.

OTHER FEATURES UPHELD

BUT ONLY BY A TIE VOTE OF THE MEMBERS OF THE COURT.

Dissenting Opinions Read by the Venerable Associate Justice Field and Justices White and Harlan.

WASHINGTON, April 8.—After almost a month of deliberation the United States Supreme Court rendered its decision to-day in the income tax cases, deciding by a divided court the law to be valid, except regarding the incomes derived from rents and State, county and municipal bonds, on which points the decision was that the law was unconstitutional. Chief Justice Fuller read the decision of the court. Dissenting opinions were read by Associate Justices Field, White and Harlan. The effect of all the opinions is to show that the court was unanimous in the opinion that the law is unconstitutional as to municipal and State bonds, that Chief Justice Fuller and associate Justices Field, Gray, Brewer, Brown and Shiras, held it to be invalid on incomes derived from rents and that Justices Harlan and White dissented from this opinion as to rents. It is impossible to state the exact division as to the validity of the other parts of the law, further than was disclosed by the proceedings. It appears quite clear that Chief Justice Fuller and Justices Harlan and White voted to sustain the other parts of the law and the best opinion obtainable is that Justice Brown stood with them in this opinion, which would leave Justices Field, Gray, Brewer and Shiras as the opponents of the law as a whole.

The opinion was general among lawyers and legislators that the case would be reached to-day and the interest which has characterized the case from the beginning was again made manifest by an unusual attendance of the public in the court room. The space is limited at best, but every available seat inside and outside the bar was occupied and many were turned away because the chamber could not accomodate all who applied for admission. Only members of the bar were admitted to the inner circle and those in attendance included many lawyers from other cities as well as a large representation from Washington. There were several Senators in the list, including Hill of New York, Lodge of Massachusetts, and Lindsay of Kentucky. Attorney-general Olney was also present.

There was only one member of the bench absent—Justice Jackson, who has not been able to attend upon the court since last fall, and who has not participated in the consideration of the case in any way. It is to his absence that the even division of the court on the majority of the propositions involved in the case is due. If he had been present such a result would have been impossible, and the opinion would have included a decision of all the points involved, instead of only the two in regard to incomes derived from rents and municipal and State bonds.

The spectators had not long to wait for the beginning of the delivery of the main opinion after the court convened. The justices filed promptly in, at high noon, and there was very little preliminary work before the Chief Justice began the delivery of an opinion, which is regarded by many as the most important and far-reaching in its effects that has been rendered in this court since the days of the rebellion. There were only two minor decisions rendered by other members of the bench, when Chief Justice Fuller, after making a few routine announcements, began, at 12:05, to read the court's decree in the case of Charles Pollock versus the Farmers' Loan and Trust Company and others. This was the first in order of the cases against the trust companies, and the conclusion reached in it applies also to the case of Hyde versus the Continental Trust Company, as the questions at issue are the same in both cases. The Chief Justice read with considerable rapidity, but his voice was at all times clear and distinct, and the lawyers present who had familiarized themselves with the case had little or no difficulty in following him. The delivery of the opinion occupied an hour's time, and all present gave the closest attention.

THE COURT'S DECISION.

Chief Justice Fuller on the Knocked-Out Provisions of the Law.

Mr. Fuller began with a brief reference to the question of jurisdiction in the case. This point had, he said, been frequently referred to, but he dismissed it by saying that as the question had not been raised in the court below and had been waived in the argument of the case in the Supreme Court, there appeared no objection to considering the case purely on its merits. Proceeding to this end, he gave his attention to the objections to the law, as made by the appellant, quoting the principal ones as follows:

First—That the act imposes a direct tax in respect of the real estate, rents, issues and profits as well as of the income and profit of personal property and not being apportioned is in violation of Section 2 of Article 1 of the Constitution.

"Second—That the law, if not imposing a direct tax, is nevertheless unconstitutional in that its provisions are not uniform throughout the United States and do not operate with the same force and effect upon the subject of the tax wherever found, and in that it provides exemptions in favor of individuals and copartnerships, while denying all exemptions to corporations having similar income derived from like property and values and provides for other exemptions and inequalities in violation of Section 8 of Article 1 of the Constitution.

"Third—That the act provides no exemption of the tax upon incomes derived from the stocks and bonds of States of the United States and countries and municipalities therein, which stocks and bonds are not proper subjects for the taxing power of Congress. The income from these securities in the United States amounts to over $65,000,000 per annum, on which the total income tax would be $1,300,000."

The body of the court's opinion was devoted to the consideration of the question from a constitutional point of view, and involved a very elaborate definition of the meaning of the phrase "direct taxes," and also a construction of the constitutional requirement as to apportionment. This made necessary a review of many former opinions of the court, a number of which, including the Hylton and Springer cases, were quoted from at length, and commented upon. The Chief Justice said that under the Constitution federal taxes were divided into direct taxes and duties, imposts and excises, and laid down the rule that direct taxes should under that instrument be governed by the rule of apportionment among the several States according to population. Referring to the question of direct taxation, he said that it was not to be presumed that the framers of the Constitution were not men capable of appreciating what they were doing when they provided for the differentiation of imposts, excises and duties from other forms of taxation. The framers of the fundamental law had before them more prominently than any other thought the idea that taxation and representation should go hand in hand. The Constitution was the result of a compromise between the States and the federal government whereby the States surrendered the right of levying imposts, duties and excises, but it was evident they did not mean to transfer to the general government the right to levy direct taxes in cases of great emergencies. This compact, the Chief Justice said, had been observed up to the time of the passage of the act of August, 1894.

VIRTUALLY A DIRECT TAX.

The Chief Justice held that in taxing the income derived from land it virtually, and to all intents and purposes, taxed the land itself, for, he asked, what was the land to any one but for the profit derived from it? The name of the tax was unimportant, but the effect was of vast consequence, and as there could be neither distinction nor material difference between taxing the land and the profit derived from it, the court had reached the opinion that this portion of the law was invalid and could not be sustained.

The same conclusion was reached in regard to the provision for taxing State, county and municipal bonds. He said, in effect, that it was clearly never intended by the States to delegate authority to the national Congress to weaken their credit by providing a tax upon their instrumentalities and revenue agencies. Such an exercise of power was repugnant to the Constitution, and, therefore, the portion of the law putting it into execution must also be declared invalid.

On the other points involved the opinion did not venture because of the even division of the court. The Chief Justice was not prepared to give out the full text of the decision, but furnished the following summary of the concluding portion of it to the press:

"First—That by the Constitution federal taxation is divided into two great classes: Direct taxes and duties, imposts and excises.

"Second—The imposition of direct taxes is governed by the rule of apportionment among the several States, according to numbers and the imposition of duties, imposts and excises by the rule of uniformity throughout the United States.

"Third—That the principle that taxation and representation go together was intended to be and was preserved in the Constitution by the establishment of the rule of apportionment among the several States, so that such apportionment should be according to numbers in each State.

"Fourth—That the States surrender their power to levy imposts and to regulate commerce to the general government and gave it the concurrent power to levy direct taxes in reliance on the protection afforded by the rules prescribed, and that the promises of the Constitution cannot be disturbed by legislative action.

"Fifth—That these conclusions result from the text of the Constitution, and are supported by the historical evidence furnished by the circumstances surrounding the framing and adoption of that instrument, and the views of those who framed and adopted it.

"Sixth—That the understanding and expectation at the time of the adoption of the Constitution was that direct taxes would not be levied upon the general government except under the pressure of extraordinary exigency, and such has been the practice down to Aug. 15, 1894. If the power to do so is to be exercised as an ordinary and usual means of supply, that fact furnishes an additional reason for circumspection in disposing of the present case.

"Seventh—That taxes on real estate belong to the class of direct taxes, and that the taxes on the rent or income of real estate, which is the incident of its ownership, belong to the same class.

"Eighth—That by no previous decision of this court has this question been adjudicated to the contrary of the conclusions now announced.

"Ninth—That so much of the act of Aug. 15, 1894, as attempts to impose a tax on the rent or income of real estate without apportionment is invalid.

MUNICIPAL BONDS NOT TAXABLE.

"The court is further of opinion that the act of Aug. 15, 1894, is invalid so far as it attempts to levy a tax upon the income derived from municipal bonds. As a municipal corporation is the representative of the State and one of the instrumentalities of the State government, the property and revenues of municipal corporations are not the subject of federal taxation, nor is the income derived from State, county and municipal securities, since taxation on the interest therefrom operates on the power to borrow before it is exercised, and has a sensible influence on the contract, and, therefore, such a tax is a tax on the power of the States and their instrumentalities to borrow money, and consequently repugnant to the Constitution.

"Upon each of the other petitions argued at the bar, to-wit: (1.) Whether the void provisions as to the rents and incomes from real estate invalidates the whole act? (2), whether as to the income from personal property as such the act is unconstitutional as laying direct taxes? (3), whether any part of the tax, if not considered as a direct tax, is invalid for want of uniformity on either of the grounds suggested? the justices who heard the arguments are equally divided and, therefore, no opinion is expressed.

"The result is that the decree of the Circuit Court is reversed and the case remanded with directions to enter a decree in favor of complainant in respect only of the voluntary payment of the tax on the rents and income of its real estate, and that which it holds in trust and on the income from the municipal bonds owned or so held by it."

In conclusion, the Chief Justice stated that this opinion upon the Pollock case covered the two other cases. The delivery of the opinion consumed just one hour. Chief Justice Fuller began at 12:05 and concluded at 1:05. He was followed by Justice Field, who read the first dissenting opinion, speaking in a low tone that contrasted noticeably with the loud delivery of the Chief Justice.

JUSTICE FIELD DISSENTS.

He Picks Many Flaws in the Law and Says It Discriminates.

The dissenting opinion delivered by Justice Field, the oldest member of the court, was an exhaustive review of the case and the principles involved in it. Some decisions of the court, he said, had thrown doubt upon the meaning of "direct taxes," but in the discussions of the British Parliament the income tax had always been considered an indirect tax, while the tax upon real property, its rents and income, had, by universal consent, been recognized to be a direct tax. In this connection he said:

"One may have the reports of the English courts examined for several centuries without finding a single decision, or even a dictum of their judges in conflict with them. An incident which occurred in this court, and room, twenty years ago, may have become a precedent. To a powerful argument then being made by a distinguished counsel, on a public question, one of the judges explained that there was a conclusive answer to his position, and that was that the court was of a different opinion. Those who decline to recognize the adjudications cited may likewise consider that they have a conclusive answer to them in the fact that they also are of a different opinion. I do not think so. The law, as expounded for centuries, cannot be set aside or disregarded because some of the judges are now of a different opinion from those who, a century ago, followed it in framing our Constitution."

Justice Field said further: "Exemptions from the operation of a tax always create inequalities. Those not exempted must, in the end, bear an additional burden, or pay more than their share. A law containing arbitrary exemptions can in no just sense be termed uniform. We do not think that Congress has rightfully the power, at the expense of others owning property of the like character, to sustain private trading corporations, such as building and loan associations, savings banks and mutual life, fire, marine and accident insurance companies, formed under the laws of the various States, which advance no national purpose or public interest, and exist solely for the pecuniary profit of their members. Where property is exempt from taxation the exemption, as has been justly stated, must be supported by some consideration that the public and not private interests will be advanced by it. Private corporations and private enterprises cannot be aided under the pretense that it is the exercise of the discretion of the legislature to exempt them.

DISCRIMINATING FEATURES.

"The income tax law under consideration is marked by discriminating features, which affect the whole law. It discriminates between those who receive an income of $4,000 and those who do not. It thus vitiates, in my judgement, by this arbitrary discrimination, the whole legislation. The legislation, in the discrimination it makes, is class legislation. Whenever a distinction is made in the burdens a law imposes, or in the benefits it confers on any citizens by reason of their birth, wealth, or religion, it is class legislation, and leads inevitably to oppression and abuses, and to general unrest and disturbance in society. It was hoped and believed that the great amendments to the Constitution which followed the late civil war had rendered such legislation impossible for all future time. But the objectionable legislation reappears in the act under consideration. It is the same in essential character as that of the English income statute of 1691, which taxed Protestants at a certain rate, Catholics as a class, at double the rate of Protestants, and Jews at another and separate rate.

"Under wise and constitutional legislation every citizen should contribute his proportion, however small the sum, to the support of the government and it is no kindness to urge any of our citizens to escape from that obligation. If he contributes the smallest mite of his earnings to that purpose he will have a greater regard for the government and more self-respect for himself, feeling that though he is poor in fact, he is not a pauper of his government. And it is to be hoped that, whatever woes and embarrassments may betide our people, they may never lose their manliness and self-respect. These qualities preserved they will ultimately triumph over all reverses of fortune.

"As to mutual savings banks—Under income tax laws prior to 1870 these institutions were specifically taxed. Under the new law certain institutions of this class are exempt, provided the shareholders do not participate in the profits, and interest, and dividends are only paid to the depositors. No limit is fixed to the property and income thus exempted—it may be $100,000 or $100,000,000.

"As to mutual insurance corporations—These companies were taxed under previous income tax laws. They do business somewhat differently from other companies, but they conduct a strictly private business, in which the public has no interest, and have been often held not to be benevolent or charitable organizations. The sole condition for exempting them under the present law is declared to be that they make loans to or divide their profits among their members, or depositors, or policy holders. Every corporation is carried on, however, for the benefit of its membes, whether stockholders, or depositors or policy holders. If it is carried on for the benefit of its shareholders, every dollar of income is taxed; if it is carried on for the benefit of its policy holders or depositors, who are but another class of shareholders, it is wholly exempted.

BUILDING ASSOCIATIONS.

"As to building and loan associations—The property of these institutions is exempted from taxation to the extent of millions. They are in no sense benevolent or charitable institutions and are conducted solely for the pecuniary profit of their members. Their assets exceed the capital stock of the national banks of the country. The aggregate amount of the saving to these associations, by reason of their exemption, is over $600,000 a year.

"This inherent limitation upon the taxing power forbids the imposition of taxes which are unequal in their operation upon similar kinds of property and necessarily strikes down the gross and abitrary distinctions in the income law, as passed by Congress. The law, as we have seen, distinguishes in the taxation between corporations by exempting the property of some of them from taxation and levying the tax on the property of others, when the corporations do not materially differ from one another in the character of their business or in the protection required by the government. Trifling differences in their modes of business, but not in their results, are made the ground and occasion of the greatest possible differences in the amount of taxes levied upon them, showing that the action of the legislative power upon them has been arbitrary and capricious and sometimes merely fanciful.

"There was another position taken on the argument in this case, which is not the least surprising to me of the many advanced by the upholders of the law, and that is, that if this court should declare that the exemptions and exceptions from taxation, extended to the various corporations mentioned, fire, life and marine insurance companies, and to mutual savings banks, building and loan associations, violate the requirement of uniformity, and are, therefore, void, the tax as to such corporations can be enforced, and that the law will stand as though the exemptions had never been inserted. The abrogation or repeal of an unconstitutional or illegal provision does not operate to create and give force to any enactment or part of an enactment which Congress has not sanctioned and promulgated. The law of 1894 says there shall be assessed, levied and collected, 'except as herein otherwise provided,' 2 per centum of the amount, etc. If the exceptions are stricken out, there is nothing to be assessed and collected except what Congress has otherwise affirmatively ordered. Nothing less can have the force of law. This court is impotent to pass any law upon the subject. It has no legislative power.

"The law of Congress is also invalid, in that it authorizes a tax on the salaries of the judges of the courts of the United States, against the declaration of the Constitution that their compensation shall not be diminished during their continuance in office."

In conclusion, Justice Field said: "Here I close my opinion. I could not say less in view of questions of such gravity that go down to the very foundation of the government. If the provisions of the Constitution can be set aside by an act of Congress, where is the course of usurpation to end? The present assault upon capital is but the beginning. It will be the stepping stone to others, larger and more sweeping, till our political contests will become a war of the poor against the rich; a war constantly growing in intensity and bitterness. If the court sanctions the power of discriminating taxation and nullifies the uniformity, 'a mandate of the Constitution,' as said by one who had been all his life a student of our institutions, it will mark the hour when the sure decadence of our government will commence. If the purely arbitrary limitation of $4,000 in the present law can be sustained, none having less than that amount of property being assessed or taxed for the support of the government, the limitation of future Congresses may be fixed at a much larger sum—at $5,000, $10,000 or $20,000—parties possessing that sum alone being bound to bear the burdens of government; or the limitation may be designated at such an amount as a board of walking delegates may deem necessary. There is no safety in allowing the limitation to be adjusted except in strict compliance with the mandates of the Constitution, which require its taxation to be uniform in operation and, so far as practicable, in proportion to their property, equal upon all citizens. Unless the rule of the Constitution governs, a majority may fix the limitation at such rate as will not include any of their own number.

"I am of opinion that the whole law of 1894 should be declared void and without any binding force—that part which relates to the tax on rents, profits, or income from real estate, that is, so much as constitutes the direct tax because not imposed by the rule of apportionment according to the representation of the States, as prescribed by the Constitution—and that part which imposes a tax upon the bonds and securities of the several States, or upon the bonds and securities of their municipal bodies as being beyond the power of Congress to impose, and the law so far as it imposes duties, imposts and excises as void in not providing for the uniformity required by the Constitution in such cases."

JUSTICE WHITE'S OPINION.

He Thinks the Court Has Erred—His View of Direct Taxes.

Justice White's dissent probably reflects, in a considerable measure, the views which would have been promulgated had the court sustained the law substantially as a whole. Concerning the form in which the cases came before the court he said:

"First—The suit cannot be maintained, because its real object is to enjoin the collection of a tax.

"Second—By the text of the statute of the United States the right to enjoin the payment of a United States tax is denied.

"Third—By adjudications of this court, from the foundation of the government to the present time, it has been held that a United States Court will not enjoin the payment of a tax due the United States, and that the proper proceeding for a person on whom such a tax is levied, and who would assert his constitutional immunity from its exactions, is to pay the tax under protest and sue for its recovery.

"Fourth and Fifth—The claim here is that the relief sought is not an injunction against the collection of the tax, but an injunction against its payment by the corporation. The theory upon which this contention rests is that as the corporation is a trustee for the stockholder, the stockholder is entitled to have it enjoined from making this payment. This contention is, in my judgment, absolutely unsound, since its premise is that the stockholder, by proceeding against the corporation, can do by indirection that which he cannot do directly.

"Sixth—The contention that because the

(Continued on Fourth Page.)

A LOSS OF $15,000,000

EFFECT OF THE INCOME-TAX LAW DECISION ON THE TREASURY.

Will Cut Down the Prospective Receipts at Least 50 Per Cent. and Possibly More.

NEW BLANKS TO BE SENT OUT

AND REFUND MADE TO PEOPLE WHO PAID THE ILLEGAL TAX.

Views of Attorney-General Olney and Others on the Decision—Percentages of Rented Homes and Farms.

WASHINGTON, April 8.—Treasury officials are greatly dispirited over the Supreme Court's decision in the income tax cases, and while admitting that they have no reliable data on which to form an estimate estimate, they express the belief that the net result of the decision will be a loss of at least 50 per cent. in their receipts from incomes. In some cities the loss will be far greater than this, notably in the city of Washington, where the loss is expected to reach 75 per cent. Washington, however, is exceptionally a renting city. The proportion of rented houses in other cities of the country also is very large. In 1890 the rented homes in New York city was nearly 94 per cent. of the whole. In Boston it was 81 per cent.; in Brooklyn, 81; in Cincinnati, 80, and in Jersey City 81. In the other large cities the percentages range down to 36 at Rochester. In New York city there were 292,956 rented houses; in Philadelphia, 157,803; in Chicago, 156,566; in Brooklyn, 139,040. The total number of rented houses in the United Staets in 1890 was 1,120,487, which, during the last five years, has undoubtedly increased very materially. Dwellings, however, represent only a small part of the capital invested in buildings of every character which produce enormous rentals.

Comparatively little was expected from interest on State, county and municipal bonds, but the total loss, it is thought, will not fall short of $15,000,000 or $20,000,000 for the first year, and this loss is expected to increase rather than diminish in succeeding years should the law remain unrepealed. The loss of this revenue, however, is not the only cause of regret among the officials. The fact that the court was evenly divided on the main constitutional questions, it is expected, will result in almost endless litigation, thus very materially adding to the expense of collecting the tax. Nevertheless, the internal revenue officials will proceed at once to prepare supplemental regulations to conform to to-day's decision, and from now on until next Monday, when the time expires in which returns may be made, any returns in which incomes from rents and bonds are deducted will be regarded as full compliance with the law. Persons who have alerady made the law. Persons who have already made their returns and paid the tax will be advised of the change in the regulations, and as soon as possible the proportionate amounts of tax paid by each on rents and bonds will be refunded to them under the general law, which authorizes the Commissioner of Internal Revenue to refund taxes wrongfully collected.

Attorney-general Olney was much surprised at that part of the decision which exempts rents under the income tax. As to the section of the act relating to bonds the Attorney-general rather expected an adverse decision, but he regards the action of the court on the rent proposition as having been taken on technicalities, which, he believes, will not stand the test of time, and cannot remain the permanent law of the land. On all other points the government, he believes, has no serious cause for complaint. It is universally regretted that there was not a full bench to hear the case and should Justice Jackson resign there is very good reason to believe his successor would almost certainly be favorable to the law, in which event another test case would very soon be brought to court for determination.

The President, on being asked this afternoon view of the decision of the Supreme Court, extra session of Congress would be called, said that neither he nor the Secretary of the Treasury saw any necessity for such action and that unless there was an unexpected change in conditions he had no idea that Congress would meet again before the time appointed for its regular session.

Owned and Rented Farms.

WASHINGTON, April 8.—The compilation of farms, homes and mortgages statistics made by the last census is interesting in view of the decion of the Supreme Court. Thee statistics do not, however, give details concerning rents paid. A summary of the statistics shows: There are 12,690,152 familie in the United States and of these families 52 per cent. hire their farms or homes and 48 per cent. own them, while 28 per cent. of the owning families own subject to incumbrance, and 72 per cent. own free of incumbrance. On the owned farms and homes there are liens amounting to $2,132,949,563, which is 37 per cent. of the value of the uncumbered farms and homes, and this debt bears interest at the average rate of 6.65 per cent. Each owned and incumbered farm or home on the average is worth $3,352 and is subject to a debt of $1,257. In regard to the families occupying farms the conclusion is that 34 per cent. of the families hire and 66 per cent. own the farms cultivated by them; that 28 per cent. of the owning families own subject to incumbrance, and 72 per cent. own free of incumbrance. Among one hundred farm families on the average, 34 per cent. hire the farms, 19 per cent. own with incumbrance and 47 per cent. without incumbrance. On the owned fams there are liens amounting to $1,085,995,960, which is 35 per cent. of the value of the incumbered farms, and this debt bears interest at the average rate of 7.07 per cent. Each owned and incumbered farm, on the average, is worth $3,444, and is subject to a debt of $1,224. families in the United States and of these

The "Thunderer's" Views.

LONDON, April 9.—Commenting editorially on the decision on the income tax the Times says: "The Supreme Court has once more, in a striking way, reminded the citizens of the United States that Congress is not Competent. Probably doubly invidious as this partial tax would now become, the government, in their extremity, will proceed to collect it. It remains to be seen whether the government will be able to compel foreigners or nonresidents in America to pay. With Congress not sitting, it is not easy to see how the deficiency arising from the court's decision will be provided for."

Views of New Yorkers.

NEW YORK, April 8.—Joseph H. Choate said to-night that those parts already passed upon—the tax on rents, and on State, county and municipal bonds—were, of course, inoperative, but, encouraged by this decision, exceptions would probably be lodged against other parts.

One of the Wormser brothers spoke for both. "Suppose a lower court decides against the income tax," said Mr. Wormser, "and the case is carried up. If the Supreme Court Justices stand four to four on the question, their decision will be against the tax, an opposite result from this decision."

Chauncey M. Depew said: "I think the decision, so far as it applies to real estate, is a fine law, sound law, excellent law. Under it the capitalist who derives all his incomes from rents of tenement houses, hotels, flat houses, factories and so on, is not obliged to pay a dollar of taxes; the unfortunate man, however, who rents houses from him is heavily taxed. That is nice law."

Judge John F. Dillon, for the Gould corporation, said: "While the decision will